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BEFORE THE UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION III

IN THE MATTER OF:

Lindane Dump Superfund Site  
Allegheny County, Pennsylvania

Allegheny Ludlum Corporation,

Respondent

Proceeding Under Section 104(e)  
(5) of the Comprehensive  
Environmental Response,  
Compensation and Liability Act  
of 1980, as amended by the  
Superfund Amendments and  
Reauthorization Act of 1986,  
42 U.S.C. § 9604(e)(5)

Docket No. III-96-71-DC

I hereby certify that the  
within is a true and correct copy  
of the original UNO for Access  
filed in this matter.

PC Miller  
Attorney for EPA - Region III

UNILATERAL ADMINISTRATIVE ORDER FOR ACCESS

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### EXHIBIT 1 - DEED

EXHIBIT 2 - DECEMBER 8, 1994 DRAFT LICENSE LETTER

EXHIBIT 3 - MARCH 8, 1995 DRAFT LICENSE LETTER

EXHIBIT 4 - ALLEGHENY LUDLUM APRIL 6, 1995 LETTER

EXHIBIT 5 - ELF ATOCHEM MAY 17, 1995 LETTER

EXHIBIT 6 - ELF ATOCHEM MAY 23, 1995 LETTER

EXHIBIT 7 - U.S. EPA MAY 7, 1996 LETTER

EXHIBIT 8 - MAY 9, 1996 DRAFT LICENSE LETTER

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Reauthorization Act of 1986,  
42 U.S.C. § 9604(e) (5)

**UNILATERAL ADMINISTRATIVE ORDER FOR ACCESS**

**I. JURISDICTION**

1.1 This Administrative Order ("Order") is issued pursuant to the authority vested in the President of the United States by Section 104(e) (5) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9604(e) (5), ("CERCLA"), delegated to the United States Environmental Protection Agency ("EPA") by Executive Order No. 12,580, 52 Fed. Reg. 2923 (1987), and further delegated to the Regional Administrators of EPA by Delegation Number 14-6. This Order pertains to a one-half acre parcel of land located on the southeastern side of Karns Road between Burtner Road and Spring Hill Road in Natrona, Harrison Township, Allegheny County, Pennsylvania. The parcel of land will hereinafter be referred to as the Allegheny Ludlum Property or "the Property", and is further described in paragraph 3.5 below.

**II. STATEMENT OF PURPOSE**

2.1 In issuing this Order, the objective of EPA is for EPA and/or its Authorized Representatives (as defined in paragraph 7.1 below) to obtain entry and access to the Property from the Respondent in order: (1) to conduct any necessary pre-design studies to implement the remedy set forth in the Record of Decision ("ROD"), executed by EPA on March 31, 1992; (2) to develop final plans, drawings, specifications, general provisions, and special requirements necessary to implement the

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remedy set forth in the ROD, pursuant to the Remedial Design ("RD") Work Plan approved by EPA for the purpose of conducting the Remedial Design for the Lindane Dump Superfund Site ("the Site"); (3) to conduct those activities necessary to implement both the ROD and the final plans and specifications pursuant to the Remedial Design and Remedial Action ("RD/RA") Work Plans for the purpose of conducting the Remedial Action, as defined by Section 101(24) of CERCLA, 42 U.S.C. § 9601(24), for the Site; (4) to conduct operation and maintenance, as defined by 40 C.F.R. § 300.435, to perform such measures or activities as are required to maintain the effectiveness of the Remedial Action ("RA"); and (5) to conduct all other investigations, monitoring, surveys, testing and other information gathering, as authorized under Section 104(b) of CERCLA, 42 U.S.C. § 9604(b), that EPA determines are necessary or appropriate to identify the existence and extent of the release or threat thereof, the source and nature of the hazardous substances, pollutants or contaminants involved, and the extent of danger to the public health or welfare or the environment. Remedial Action shall also include the operation of treatment or other measures necessary to restore ground and surface water quality to a level that assures protection of human health and the environment for a period of up to 10 years after the construction or installation and commencement of operation as set forth in Section 104(c)(6) of CERCLA, 42 U.S.C. § 9604(c)(6).

### III. FINDINGS OF FACT

3.1 Respondent, Allegheny Ludlum Corporation, is a business entity incorporated under the laws of the Commonwealth of Pennsylvania on April 24, 1970.

3.2 The Lindane Dump Superfund Site is located in Harrison Township near Natrona, Pennsylvania, in the Allegheny River Valley. Both Harrison Township and Natrona are in Allegheny County on the northwestern side of the Allegheny River. The Site is located near river mile 25, some 20 road miles northeast of downtown Pittsburgh. Land surfaces in this area are generally steeply sloping toward the river.

3.3 The Site, covering approximately 61.8 acres, consists of upper and lower project areas. Alsco Community Park, a 14.3-acre recreational parcel with a tennis court, baseball fields, picnicking areas, and parking facilities, comprises the upper project area. The Park is owned and maintained by Harrison Township, Pennsylvania. It is situated upon an area which, in part, was formerly an industrial waste disposal site. The property immediately to the south of the park, covering approximately 47.5 acres, comprises the lower project area. Currently owned by Respondent, portions of this parcel were also used for waste disposal until the mid-1980s. The Property, which is the subject of this Order, is adjacent to the Site and is also

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owned by the Respondent.

3.4 The majority of both the upper and lower project areas have been graded and form terraces in the hillside extending from the residential areas located north and northeast of the project site down to Karns Road. However, steeply sloping areas exist between the upper and lower project areas and along Karns Road in the lower project area.

3.5 As noted in paragraph 1.1 above, the Allegheny Ludlum Property, which is the subject of this Order, is located on the southeastern side of Karns Road between Burtner Road and Spring Hill Road in Natrona, Harrison Township, Pennsylvania. The Property consists of an approximately one-half-acre parcel that is described in Allegheny County Deed Book 3977, p. 678, block/lot number 1520-E-35. A copy of the Deed to the Property which is subject to this Order is attached as Exhibit 1.

3.6 The Property sits immediately adjacent to the existing interim leachate collection and treatment system located across Karns Road in the Site's lower project area. As described more fully in paragraph 3.23 below, EPA has determined that access to this Property is necessary to implement the upgrading of this leachate collection and treatment system, as required by the remedy set forth in the ROD.

3.7 The ROD details the extensive sampling and analysis of surface and subsurface soils, ground water monitoring wells, surface water including leachate seeps, sediments, on-site air, residential wells, and municipal water intake conducted as part of the Remedial Investigation ("RI") at the Site. This investigation revealed the contamination information set forth below in paragraphs 3.8 - 3.11.

3.8 **Surficial Soil Contamination:** Exploratory trenching in the lower project area revealed BHC isomers, including the isomer gamma-BHC (Lindane), DDT, DDE, DDD, and the inorganics arsenic, cadmium, chromium, copper, lead, mercury, nickel, selenium, silver, and zinc. Exploratory borings drilled in the upper project area detected isomers of BHC and 4,4'-DDT at varying depths through the fill, along with the same inorganics found in the lower project area discussed above. Surficial soil samples of the lower project area contained phenols, benzene, 4,4'-DDT and its metabolites, the BHC isomers and the inorganics arsenic, cadmium, chromium, copper, lead, mercury, nickel, silver, and zinc. Surficial soil samples of the upper project area, including several locations near adjacent residential properties, revealed alpha-BHC, beta-BHC, delta-BHC, gamma-BHC, 4,4'-DDT, 4,4'-DDE, 4,4'-DDD, and the inorganics arsenic, chromium, copper, lead, nickel, zinc, mercury, silver, and phenol.

3.9 **Surface Water and Sediment Contamination:** Sediment samples

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collected from upper project area drainage ditches contained alpha-BHC, delta-BHC, gamma-BHC, and 4,4'-DDT. Allegheny River surface water samples revealed the presence of delta-BHC just downstream from the interim leachate collection/treatment plant discharge, while river sediment samples detected alpha-BHC, beta-BHC, delta-BHC, gamma-BHC, 4,4'-DDT, 4,4'-DDD, and 4,4'-DDE, as well as the inorganics arsenic, cadmium, chromium, copper, lead, mercury, nickel, silver, and zinc. Storm runoff samples revealed the presence of alpha-BHC and gamma-BHC above detection limits. Municipal water intake samples from a location downstream of the Site exceeded the Safe Drinking Water Maximum Contaminant Level (MCL) for mercury.

3.10 Ground Water Contamination: Ground water samples contained alpha-BHC, beta-BHC, delta-BHC, gamma-BHC, 4,4'-DDT, benzene, chlorobenzene, and dichlorobenzene, as well as low levels of chromium, nickel, zinc, and phenol.

3.11 Air Contamination: Air quality monitoring revealed alpha-BHC above detection limits in one sample.

3.12 Between 1980 and 1985, Elf Atochem North America, Inc. ("Elf Atochem", originally the Pennsylvania Salt Manufacturing Company, a former Site owner and early generator of industrial waste at the Site) conducted several investigations, monitoring events, and interim remedial measures. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the CERCLA National Priorities List ("NPL"), set forth at 40 C.F.R. Part 300, Appendix B, by publication in the Federal Register on September 8, 1983, 48 Fed. Reg. 40671. Under a 1987 Consent Order with the Pennsylvania Department of Environmental Protection ("PADEP"), Elf Atochem agreed to conduct a supplemental Remedial Investigation and Feasibility Study ("RI/FS") for the Site pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"), 40 C.F.R. Part 300 (as amended), and to comply with specified effluent limits for an interim leachate collection and treatment system that had been installed at the Site's lower project area in 1984. Elf Atochem completed the RI in January 1990, and the FS in March 1991. In December 1991, EPA published notice of the completed FS and the proposed remedial action plan in a major local newspaper to invite public comment, pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617.

3.13 The ROD presented the selected remedial action plan for the Site. EPA published notice of the final plan in accordance with Section 117(b) of CERCLA, 42 U.S.C. § 9617(b). This remedy consists of four components determined to protect the public health, welfare, or the environment from the actual or threatened releases of hazardous substances at the Site. These elements consist of (1) building a combination clay and soil cap and multilayer cap on approximately 14 acres of the upper project

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area and 4 acres of the lower project area to reduce the infiltration of water into the fill area, which in turn will reduce contaminant migration from the fill into the aquifer of concern; (2) upgrading the existing interim leachate collection and treatment system to provide better treatment of contaminated leachate and shallow ground water, with the long-term goal of returning the ground water to its most beneficial use; (3) providing additional protection by implementing institutional controls and installing a security fence around the lower project area, which, along with the new cap, will prevent direct human contact with Site contaminants and protect the integrity of the cap; and (4) monitoring ground water and implementing a Site maintenance program.

3.14 In a Consent Decree issued in the matter of United States v. Elf Atochem North America, Inc., Civil Action No. 93-2182 (E.D. Pa.) dated June 29, 1993, Elf Atochem agreed to implement the Remedial Action set forth in the ROD.

3.15 The risks of human health effects posed by Site contamination come from potential exposure to contaminated soils, ground water, and leachates from seeps via ingestion. Overall, the cumulative increased cancer risk for adults in the upper project area is  $4.6 \times 10^{-6}$ , and in the lower project area is  $1.48 \times 10^{-5}$ . For children, the cumulative increased cancer risk in the upper project area is  $5 \times 10^{-5}$ , and in the lower project area is  $7 \times 10^{-5}$ . The total cumulative risks from all contaminants found in each medium are summarized below.

3.16 Surficial Soil Risks: According to the ROD, the increased risk for cancer for an adult exposed to surficial soils or subsoils by ingestion under current and future conditions ranges from  $6 \times 10^{-7}$  to  $4 \times 10^{-6}$ . For a child, the same exposure poses an increased risk ranging from  $2 \times 10^{-5}$  to  $4 \times 10^{-5}$ . For adults, the hazard index ranges from 0.008 to 0.1. For children, the hazard index is 0.2.

3.17 Surface Water and Sediment Risks: The increased risk for cancer for an adult exposed to river sediments by ingestion under current and future conditions is  $8 \times 10^{-6}$ . The hazard index is 0.03 under both the current and future exposure scenarios. For adults and children ingesting Allegheny River water adjacent to the Site under current and future conditions, there is no increased cancer risk, and the hazard index ranges from 0.000009 for adults to 0.00005 for children.

3.18 Ground Water and Seep Water Risks: The increased risk for cancer for a child ingesting seep water under current and future conditions is  $7 \times 10^{-5}$ . The hazard index is 0.3 for this exposure scenario. For an adult in the future using ground water as drinking water from a well on or downgradient of the Site during working periods, the increased cancer risk is  $4.2 \times 10^{-5}$ .

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and the hazard index is 0.077 for this exposure scenario.

3.19 Regarding the potential environmental impact of Site contamination, an ecological assessment conducted during the RI observed no impact on terrestrial or aquatic life at the Site, and predicted none. This is primarily due to the lack of animal habitat in the Site area caused by the proximity of highly developed residential, commercial, and industrial areas.

3.20 Among the elements of the Remedial Action designated in the ROD that Elf Atochem agreed to implement pursuant to the Consent Decree with EPA is the modification of the existing leachate collection and treatment system so that the resulting discharge will meet or be lower than the PADEP final effluent discharge limits under the National Pollutant Discharge Elimination System ("NPDES"). Elf Atochem is to operate and maintain the final system for a 30-year period or longer if hazardous substances that pose a threat remain at the Site.

3.21 In developing the RD for the final system, the contractor retained by Elf Atochem estimated the land requirement at approximately 17,000 square feet (exclusive of any applicable zoning setback requirements), including 10,000 square feet for the treatment building and 7,000 square feet for parking and truck loading and unloading. By contrast, the present interim system, located in the Site's lower project area just north of Karns Road, occupies less than 5,000 square feet of land. The contractor determined that the useable on-Site land in the vicinity of the existing interim system is not large enough to accommodate this significantly larger final system. Moreover, excavating into the hillside near this existing system to create a larger useable land area is not technically feasible.

3.23 Elf Atochem, upon advice by its contractor, has determined that the Property subject to this Order, given its size, undeveloped status, and proximity to the existing interim leachate collection and treatment system, is the most appropriate location on which to construct and operate the final upgraded system required by the ROD. To effectuate this element of the Remedial Action pursuant to Section 104(e)(3)(D) of CERCLA, 42 U.S.C. § 9604(e)(3)(D), EPA and its Authorized Representatives, including but not limited to Elf Atochem and its contractors and subcontractors, require access to the Property to conduct, inter alia, the following activities: (1) carrying out a geotechnical investigation consisting of a boring and soil testing program to support designing the foundation of the final leachate collection and treatment system; (2) constructing the final system; and (3) operating and maintaining the final system, as required by the ROD and Consent Decree, for a period of 30 years or more while hazardous substances which continue to pose a threat remain at the Site. The preceding list of activities is not exhaustive, and shall not be construed to limit the broader description of

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response actions, found in Section II above, that EPA and its Authorized Representatives seek to conduct on the Property.

3.24 In November 1994, Elf Atochem commenced discussions with Respondent regarding obtaining access to the Property subject to this Order to carry out the Remedial Actions discussed in Section II and Paragraph 3.23 above. Elf Atochem prepared a draft license agreement addressing access for the initial geotechnical investigation, which it transmitted to Respondent on December 8, 1994. The accompanying cover letter requested that Respondent review and approve the agreement within the following few days so that an Elf Atochem consultant, who was already working at the Site, could gain access to the Property to conduct the geotechnical investigation without having to return at additional expense after leaving the Site. A copy of this draft license agreement and cover letter are attached as Exhibit 2.

3.25 Respondent refused to approve the draft license agreement. In response, Elf Atochem conducted a conference call with Respondent in January 1995, during which it offered to answer any questions Respondent might have regarding the geotechnical investigation it sought to conduct on the Property to initiate the leachate collection and treatment system upgrade required by the ROD. Respondent did not request any additional information, and yet continued to refuse to approve the December 1994 draft license agreement. Consequently, Elf Atochem forwarded an additional copy of the draft license agreement to Respondent on March 8, 1995. The accompanying cover letter requested that Respondent reply by March 15, 1995, so that Elf Atochem could continue to implement the final leachate collection and treatment system according to the schedule dictated by the RD/RA Work Plan. A copy of this cover letter, which also describes the January 1995 conference call and Respondent's non-response, is attached as Exhibit 3.

3.26 On April 6, 1995, Respondent once again refused to grant Elf Atochem access to the Property to implement the leachate collection and treatment system upgrade required as part of the remedial action under the ROD. In its written refusal, Respondent claimed that Elf Atochem could implement the upgraded system on-Site, and therefore rejected Elf Atochem's request to do so on Respondent's property. A copy of this letter is attached as Exhibit 4. Elf Atochem's contractor, in a letter to Elf Atochem dated May 17, 1995, specifically rejected the proposition that the upgraded system could be located in the insufficient on-Site space adjacent to the existing interim system. A copy of this letter is attached as Exhibit 5.

3.27 On May 23, 1995, Elf Atochem formally invoked Paragraph X.B. of the Consent Decree to request that EPA intervene to assist Elf Atochem in gaining access to the Property to implement the leachate collection and treatment system upgrade required by the

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ROD. A copy of this request is attached as Exhibit 6. Paragraph X.B. of the Consent Decree authorizes Elf Atochem to request such intervention after using its own best efforts to negotiate access to any property, on- or off-Site, that Elf Atochem must enter to effectuate the response action.

3.28 On several occasions, at the request of Elf Atochem, EPA initiated telephone calls to Respondent to request access to the Property to effectuate the Remedial Action. Access to the Property was refused. Finally, on May 7, 1996 EPA sent a letter to Respondent requesting that access be granted to EPA and its designated representatives by May 10, 1996. A copy of this request is attached as Exhibit 7. On May 7, 1996, Elf Atochem was designated by EPA as its Authorized Representative for purposes of access to effectuate the response action. In response, Respondent notified EPA by letter dated May 9, 1996 that it would enter into an "appropriate license agreement with Elf Atochem" to provide access to the Property. Respondent attached the proposed License Agreement to its letter. A copy of Respondent's response is attached as Exhibit 8.

3.29 On May 10, 1996, Elf Atochem reported to EPA that it could not enter into the proposed License Agreement because access would only be granted to "conduct a geotechnical investigation" and was not an agreement granting consent "to any future use of the Tract in conjunction with the RD/RA." See Exhibit 8. Respondent's response and proposed License Agreement does not permit EPA, or Elf Atochem, access to the Property to effectuate the complete response action pursuant to the ROD.

3.30 The contaminants listed in paragraphs 3.8 to 3.11 above are hazardous substances within the meaning of Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), because they are listed at 40 C.F.R. § 302.4.

3.31 The purpose of EPA's aforementioned requests to Respondent for access is to provide EPA and/or its Authorized Representatives (as defined in paragraph 7.1 below) with access to the Site so that an RD/RA can be conducted and EPA can oversee response efforts at the Site.

#### IV. CONCLUSIONS OF LAW

4.1 The Site is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

4.2 The Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

4.3 The Respondent is an "owner" as defined by Section 101(20) of CERCLA, 42 U.S.C. § 9601(20).

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4.4 Hazardous substances, as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), have been disposed of at the Site and are currently present there.

4.5 The presence of hazardous substances at the Site and the past, present, and/or potential migration of hazardous substances from the Site constitutes an actual and/or threatened "release" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

4.6 The Property is adjacent to the Site and therefore EPA and its Authorized Representative are authorized to have access pursuant to Section 104(e)(1) and 104(e)(3)(D) of CERCLA, 42 U.S.C. § 9604(e)(1) and (e)(3)(D), and Section 300.400(d) of the NCP, 40 C.F.R. § 300.400(d). EPA and its Authorized Representative are entitled to access to the Property for purposes of determining the need for response, or choosing or taking a response action, or otherwise enforcing the provisions of CERCLA and to conduct, complete, operate, and maintain any response action.

4.7 Respondent failed to grant consent for access for the purposes of Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5).

#### V. DETERMINATIONS

Based on the Findings of Fact and Conclusions of Law set forth above, and the Administrative Record that supports this Order, EPA has determined that:

5.1 There is a reasonable basis to believe that there may be or has been a release or a threatened release of hazardous substances at or from the Site.

5.2 Access to the Property is needed for EPA and/or its Authorized Representatives (as defined in Paragraph 7.1 below) in order for EPA to determine the need for response or choose or take any response action under CERCLA, or otherwise to enforce the provisions of CERCLA.

5.3 The actions required by this Order are necessary to protect the public health and welfare and the environment.

5.4 EPA has provided the Property owner notice and opportunity for consultation regarding access as is reasonably appropriate under the circumstances.

5.5 By failing to respond to numerous requests for access to the Property, the Respondent has denied EPA access to the Site for performance of an RD/RA.

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## VI. PARTIES BOUND

6.1 This Order shall apply to and be binding upon Respondent, its agents, successors, and assigns, and upon all persons, contractors, and consultants acting under or for either the Respondent or EPA or any combination thereof. No change in ownership or corporate or partnership status relating to the Property will in any way alter the status of the Respondent or its responsibilities under this Order.

6.2 In the event of any change in ownership or control of the Property, Respondent shall notify the EPA in writing at least thirty (30) days in advance of such change and shall provide a copy of this Order to the transferee in interest of the Site Property, prior to any agreement for transfer.

## VII. ACCESS TO BE PROVIDED

7.1 Respondent shall provide to EPA, its officers, employees, agents, consultants, and contractors, representatives of the Commonwealth, those acting under orders with EPA and those acting under authorization from EPA ("EPA and/or its Authorized Representatives") ingress and egress to and from all portions of the Property at all reasonable times from the effective date of this Order through completion of the response actions as described in Section II and Paragraph 3.23 above.

7.2 Respondent shall provide to EPA and/or its Authorized Representatives the use of and control over all portions of the Property for all of the purposes deemed necessary by EPA for the implementation of response actions as described in Section II and Paragraph 3.23 above.

7.3 Respondent shall permit EPA and/or its Authorized Representatives to construct, operate, and maintain structures and facilities above and/or below ground on the Property for the storage, containment, treatment or disposal of the hazardous substances found on the Site.

7.4 Respondent shall permit EPA and/or its Authorized Representatives to drill borings, perform excavations and install monitoring wells at the Site.

7.5 Respondent shall not interfere in any way with the activities of EPA and/or its Authorized Representatives on the Property during the conduct of the response actions described in Section II and Paragraph 3.23 above. Any such interference shall be deemed a violation of this Order.

7.6 Respondent shall not interfere with the operation, or alter or disturb the integrity, of any structures or devices now or hereinafter built, installed or otherwise placed by EPA and/or

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its Authorized Representatives on the Property, nor shall Respondent knowingly permit others to do so. Any such interference shall be deemed a violation of this Order.

7.7 All tools, equipment, and other property taken onto or placed upon the Property by EPA and/or its Authorized Representatives shall remain the property of EPA and/or its Authorized Representatives.

7.8 Respondent shall permit EPA and/or its Authorized Representatives to store in, on or under the Property, all materials, including contaminated and non-contaminated materials, equipment, and supplies as deemed necessary by EPA to implement response actions at the Site.

7.9 At any time following the effective date of this Order that Respondent becomes aware that the Property is entered, disturbed or adversely affected by persons other than EPA and/or its Authorized Representatives, Respondent shall immediately notify EPA's Project Coordinator designated in Section VIII below.

7.10 This Order shall be binding upon all successors and assigns and any deed or other conveyance of any interest made by the Respondent regarding the Property, as described in paragraph 3.5 above, shall contain a clause or covenant that specifically provides for continued access as set forth in this Order.

7.11 Respondent shall file this Order with the deed to the Property with the Recorder of Deeds of Allegheny County, Pennsylvania, no later than ten (10) days from the effective date of this Order.

7.12 Notwithstanding any provisions of this Order, EPA retains all of its access and information-gathering authorities and rights under CERCLA, and any other applicable statute or regulation.

7.13 Respondent shall permit EPA and/or its Representatives to clear all portions of the Site, including, but not limited to, the felling of trees, and the removal of buildings and other surface structures, including automobiles, tanks and tank trucks; to remove fill and soil from the Site; to bring fill and soil onto the Site; to monitor and/or sample soil, wastes, sediment, air and water at the Site; to remove contaminated materials found on the Site; and to perform such activities that are reasonably deemed necessary by EPA to implement response actions at the Site.

7.14 Respondent(s) shall permit EPA and/or its Representatives to post warning signs that relate to the response action at the Site.

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**VIII. EPA PROJECT COORDINATOR****8.1 The Project Coordinator for EPA is:**

Ms. Donna Santiago  
Remedial Project Manager  
U.S. Environmental Protection Agency Region III (3HW22)  
841 Chestnut Building  
Philadelphia, Pennsylvania 19107  
(215) 566-3222

**8.2** EPA shall have the ability to change its Project Coordinator at any time without prior notice to Respondent. EPA's intent is to notify the Respondent as soon as practicable following any such change of its Project Coordinator.

**8.3** The absence of the EPA Project Coordinator from the Site shall not be cause for the stoppage or delay of the access required by Section VII above, except when such stoppage or delay is specifically required by EPA.

**IX. RESERVATION OF RIGHTS**

**9.1** Nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, including the right to seek injunctive relief, and the imposition of statutory penalties. Further, nothing herein shall preclude EPA from exercising its access rights as provided by Section 104(e) of CERCLA, 42 U.S.C. § 9604(e).

**9.2** Nothing in this Order shall limit the authority of the Remedial Project Manager as outlined in the NCP and CERCLA.

**X. OTHER CLAIMS**

**10.1** Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership, or corporation not bound by this Order for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release, or disposal of any hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from the Site.

**10.2** Nothing herein shall constitute or be construed as a satisfaction or release from liability of Respondent or any other person.

**XI. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION**

**11.1** The effective date of this Order shall be seven (7) days after the date on which it is signed by EPA.

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11.2 This Order may be amended by EPA. Such amendments shall be in writing and become effective, seven (7) days after the date on which they are signed by EPA.

## **XII. LIABILITY OF THE UNITED STATES GOVERNMENT**

12.1 Neither the United States Government nor any agency thereof shall be liable for any injuries or damages to persons or property resulting from acts or omissions of Respondent or of its employees, agents, servants, receivers, successors, or assigns, or of any persons, including, but not limited to, firms, corporations, subsidiaries, contractors, or consultants, in carrying out activities, including, but not limited to, obligations pursuant to this Order, nor shall the United States Government or any agency thereof be held as a party to any contract entered into by Respondent in carrying out activities, including, but not limited to, obligations pursuant to this Order. The actions undertaken by this Order are necessary to mitigate a real and substantial threat to the environment and are necessary to protect public health and safety. The burden imposed on the Property is the minimum necessary to respond to the health and safety threat posed by that Site as a result of the real and/or threatened contamination thereon.

## **XIII. CALCULATION OF TIME**

13.1 Any reference to "days" in this Order shall mean calendar days, unless otherwise specifically provided herein.

## **XIV. NOTICE OF INTENT TO COMPLY**

14.1 Respondent shall notify EPA in writing within five (5) days after the effective date of this Order as to whether Respondent intends to comply with the terms of this Order. Failure by Respondent to provide notification to EPA of whether Respondent intends to comply within this time period shall be deemed a violation of this Order by Respondent.

## **XV. TERMINATION AND SATISFACTION**

15.1 The Respondent's obligations to EPA under this Order shall terminate and be deemed satisfied upon the Respondent's receipt of written notice from EPA that the Respondent has demonstrated, to the satisfaction of EPA, that all the terms of this Order have been satisfactorily completed.

## **XVI. OPPORTUNITY TO CONFER**

16.1 Prior to and including the third day following the effective date of this Order, Respondent may confer with EPA to discuss this Order. The Administrative Record supporting this Order shall be available at that time. The opportunity--

conference shall not affect the Respondent's obligation to comply with the terms of this Order as of its effective date. At any such conference held pursuant to Respondent's request, Respondent may appear by an attorney or other representative. Respondent should contact Patricia C. Miller, Senior Assistant Regional Counsel, at (215) 566-2662 to arrange such a conference.

**XVII. PENALTIES FOR NONCOMPLIANCE**

17.1 Respondent is hereby advised that, pursuant to Section 104(e)(5) of CERCLA, 42 U.S.C. § 9604(e)(5), a court may assess civil penalties of up to \$25,000 per day for each day that Respondent unreasonably fails to comply with this Order or any part hereof.

**XVIII. ADMINISTRATIVE RECORD**

18.1 The Administrative Record supporting this Order is available for inspection at the EPA Region III office in Philadelphia, Pennsylvania. Respondent may arrange to review the Administrative Record by contacting Patricia C. Miller, Senior Assistant Regional Counsel, at (215) 566-2662.

BY: 

W. MICHAEL MCCABE  
REGIONAL ADMINISTRATOR  
REGION III  
U.S. ENVIRONMENTAL PROTECTION  
AGENCY

DATE: MAY 23 1996

AR001282



CERTIFICATE OF SERVICE

I certify that on May 23, 1996 a true and correct copy of the the CERCLA § 104(e) Unilateral Administrative Order for Access, EPA Docket No. III-96-71-DC, issued to the Allegheny Ludlum Corporation was sent by certified mail, return receipt requested to:

John M. Tishok, Esquire  
Allegheny Ludlum Corporation  
10th Floor  
Six PPG Place  
Pittsburgh, PA 15222-5479

Date:

Patricia C. Miller  
Patricia C. Miller

AR001283

THIS Deed is made under and by virtue of a resolution of the Board of Directors of the grantor, duly passed at a regular meeting thereof held on the 7th day of March, A. D. 1962, a full quorum being present, authorizing and directing the same to be made and done.

IN WITNESS WHEREOF, The said Corporation, party of the first part, has caused its common and corporate seal to be affixed to these presents by the hand of its President and the same to be duly attested by its Secretary. Dated the day and year first above written.

ATTEST:  
J. Gordon Logue  
Secretary

PENNSALT CHEMICALS CORPORATION (CORP. SEAL)  
By Wm. P. Drake  
President

(\$5.50 U. S. I. R. S. CANCELLED)  
(\$50.00 PA. REAL ESTATE T. T. S. CANCELLED)  
(\$25.00 HARRISON TWP. D. T. T. S. CANCELLED)  
(\$25.00 HARRISON TWP. SCHOOL DIST. D. T. T. S. CANCELLED)

COMMONWEALTH OF PENNSYLVANIA ) I hereby certify that on this 22d day of March  
COUNTY OF PHILADELPHIA ) SS: A. D., 1962, before me, the subscriber, a  
Notary Public in and for the County of  
Philadelphia and Commonwealth of Pennsylvania, personally appeared Wm. P. Drake the attorney  
named in the foregoing Deed, and by virtue and in pursuance of the authority therein con-  
ferred upon him, acknowledged the said Deed to be the act of the said PENNSALT CHEMICALS  
CORPORATION, to the end that it may be recorded as such.

WITNESS my hand and Notarial seal the day and year aforesaid.

Mary J. Kelly Notary Public (N. P. SEAL)  
Phila. Phila County, Pa.  
My commission expires Feb. 13, 1963

#### CERTIFICATE OF RESIDENCE

I, hereby certify that the precise residence of the grantee is 2000 Oliver  
Building, Pittsburgh 22, Pennsylvania.

P. Shelleby

Registered in Allegheny County Apr. 9, 1962

No. 15086 Recorded Apr. 4, 1962 Time: 1:21 P. M.

WRITTEN BY LINGERT COMPARED BY

*Shelley & Miller*

John W. Cramsey, Et UX )

TO )

Frank P. Balsamo, Et UX )

#### THIS INSTRUMENT

MADE the 30th day of March in the year of our  
Lord, one thousand nine hundred and sixty-two  
(1962)

BETWEEN JOHN W. CRAMSEY AND ANTOINETTE M. CRAMSEY, his wife, of the Township of  
Shaler, County of Allegheny and State of Pennsylvania, parties of the first part and FRANK  
P. BALSAMO AND ROSE ANN BALSAMO, his wife, of the Township of Shaler, County of Allegheny  
and State of Pennsylvania, parties of the second part;

WITNESSETH, that the said parties of the first part, in consideration of SEVENTEEN  
THOUSAND (\$17,000.00) DOLLARS to them now paid by the said parties of the second part, do  
grant, bargain, sell and convey unto the said parties of the second part, their heirs and  
assigns,

ALL that certain lot or piece of ground situate in the Township of Shaler, County  
of Allegheny and State of Pennsylvania, being Lot No. 99 in the LeDonne Plan of Lots No.  
6, as recorded in the Recorder's Office of Allegheny County in Plan Book Volume 67, page  
120.

SUBJECT to conditions, exceptions, reservations and restrictions as contained in  
prior instruments of record and as shown on said recorded plan.

BEING the same premises which LeDonne Brothers, a partnership by Deed dated April  
24, 1961, and recorded June 21, 1961, in the Recorder's Office of Allegheny County in Deed  
Book Volume 3942, page 313, granted and conveyed unto the parties of the first part herein.

WITH the appurtenances: TO HAVE AND TO HOLD the same unto and for the use of  
the said parties of the second part, their heirs and assigns forever,

AND the said parties of the first part, for themselves, their heirs, executors and  
administrators covenant with the said parties of the second part, their heirs and assigns,  
against all lawful claimants, the same and every part thereof to Warrant and Defend.

NOTICE--This document may not sell, convey, transfer, include or insure the title  
to the coal and right of support underneath the surface land described or referred to herein  
and the owner or owners of such coal may have the complete legal right to remove all of such  
coal and, in that connection, damage may result to the surface of the land and any house,  
building or other structure on or in such land. (This notice is set forth in the manner  
provided in Section 1 of the Act of July 17, 1957, P. L. 984.)

WITNESS the hands and seals of the said parties of the first part.

ATTEST:  
Fox J. Harrington

John W. Cramsey (SEAL)  
Antoinette M. Cramsey (SEAL)

(\$18.70 U. S. I. R. S. CANCELLED)  
(\$170.00 PA. REAL ESTATE T. T. S. CANCELLED)  
(\$85.00 SHALER TWP. D. T. T. S. CANCELLED)  
(\$65.00 SHALER TWP. SCHOOL DIST. D. T. T. S. CANCELLED)

EXHIBIT 1

AR001284

THE Mortgagee hereby certifies that grantees precise residence is c/o Second Federal Savings & Loan Association of Pgh. 335 Fifth Avenue, Pgh. 22, Pa.  
Ned S. Williams

Registered in Allegheny County Apr. 9, 1962  
No. 15085 Recorded Apr. 4, 1962 Time: 1:12 P. M.  
WRITTEN BY LUBERT COMPARED BY Mullen & Ferraro

Pennsalt Chemicals Corp. )

TO )

Allegheny Ludlum Steel Corp. )

THIS INDENTURE

MADE the twenty-second day of March in the year of our Lord, one thousand nine hundred and sixty-two (1962)

BETWEEN PENNSALT CHEMICALS CORPORATION, formerly Pennsylvania Salt Manufacturing Company, a Corporation under the Laws of the Commonwealth of Pennsylvania having its domicile in the City of Philadelphia, County of Philadelphia, in said Commonwealth, party of the first part, AND ALLEGHENY LUDLUM STEEL CORPORATION, a Corporation under the laws of the Commonwealth of Pennsylvania, having its domicile in the City of Pittsburgh, County of Allegheny, in said Commonwealth, party of the second part;

WITNESSETH, That the said party of the first part, for and in consideration of the sum of FIVE THOUSAND AND 00/100 (\$5,000.00) Dollars, lawful money of the United States of America, unto it well and truly paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, enfeoffed, released, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, enfeoff, release, convey and confirm unto the said party of the second part, its successors and assigns,

ALL that certain tract or piece of ground situate in the Township of Harrison, County of Allegheny and Commonwealth of Pennsylvania, described according to a survey thereof by Greenough & Greenough, Inc., registered professional engineers, dated February, 1962, and being bounded and described as follows, to-wit:

BEGINNING at an iron pin on the southeasterly line of Karns Road, sometimes known as Natrona Street at the northeasterly corner of a tract of land conveyed by the Pennsylvania Salt Manufacturing Company to Emil Marino and Edward Roenick, by its deed dated September 30, 1955, and recorded in the Recorder's Office of Allegheny County, Pennsylvania, in Deed Book Volume 3551, page 133; thence extending along the southeasterly side of said Karns Road, N. 53° 00' E., a distance of 243.01 feet to an iron pin on the line of property conveyed by Pennsalt Chemicals Corporation to Albert Potvock, et ux, by its deed dated March 26, 1959, and recorded in the Recorder's Office of Allegheny County in Deed Book Volume 3772, page 189; thence along line of property now or formerly of Albert Potvock, et ux, S. 35° 11' 40" E., a distance of 123.50 feet to an iron pin on the northwesterly line of the right-of-way of the Pennsylvania Railroad Company; thence along the northwesterly line of the right-of-way of Pennsylvania Railroad Company S. 50° 17' 20" W., a distance of 268.50 feet to an iron pin on the line of lands now or formerly of Emil Marino and Edward Roenick; thence along the line of lands now or formerly of Emil Marino and Edward Roenick N. 24° 56' 40" W. a distance of 139.20 feet to an iron pin at the place of beginning.

BEING part of the same premises which J. W. Smith, by his deed dated August 5, 1920, and recorded in the Recorder's Office of Allegheny County in Deed Book Volume 2027, page 422, granted and conveyed unto THE PENNSYLVANIA SALT MANUFACTURING COMPANY, which subsequently changed its name to PENNSALT CHEMICALS CORPORATION, grantor herein.

NOTICE: This document may not sell, convey, transfer, include or insure the title to the coal and right of support underneath the surface land described or referred to herein and the owner or owners of such coal may have the complete legal right to remove all of such coal and, in that connection, damage may result to the surface of the land and any house, building or other structure on or in such land. (This notice is set forth in the manner provided in Section 1 of the Act of July 17, 1957, P. L. 984.)

SUBJECT to the easement of natural water course as the same presently exists over and across the westerly end of the premises herein being conveyed.

TOGETHER with all and singular, the improvements, ways, waters, water courses, rights, liberties, privileges, hereditaments and appurtenances whatsoever thereunto belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of the said party of the first part, in law, equity, or otherwise, howsoever, of in and to the same, and every part thereof.

TO HAVE AND TO HOLD the said hereinabove described lot or piece of ground, hereditaments and premises hereby granted, or mentioned, and intended so to be, with the appurtenances, unto the said party of the second part, its successors and assigns, to and for the only proper use and behoof of the said party of the second part, its successors and assigns, FOREVER.

AND the said party of the first part, its successors, by these presents does covenant, grant, and agree to and with the said party of the second part, its successors and assigns, that the said Corporation, the said party of the first part, its successors all and singular, the hereditaments and premises hereinabove described and granted, or mentioned, and intended so to be, with the appurtenances, unto the said party of the second part, and assigns, against said Corporation, the said party of the first part, and its successors and against all and every other person or persons whomsoever, lawfully claiming or to claim the same or any part thereof, SHALL AND WILL WARRANT AND FOREVER DEFEND.

THE PENNSALT CHEMICALS CORPORATION, Grantor, doth hereby constitute and appoint Wm. P. Drake to be its attorney for it, and in its name and as and for its corporate act and deed to acknowledge this Deed, before any person having authority by the laws of the Commonwealth of Pennsylvania, to take such acknowledgment, to the intent that the same may be duly recorded.

AR001285

**elf atochem**



Environmental Law Department

Elf Atochem North America, Inc.

2000 Market Street  
Philadelphia, PA 19103-3222  
Tel.: 215.419.7000

Dial Direct: (215) 419-5036  
Telecopier: (215) 419-7597

December 8, 1994

**VIA FAX**

John M. Tishok, Esq.  
Allegheny Ludlum Corp.  
10th Floor  
Six PPG Place  
Pittsburgh, PA 75222-5479

RE: Right of Entry to Allegheny Ludlum Property  
D B 3977, Pg. 678, 1520-E-35, Harrison Township, PA

Dear Mr. Tishok:

Rather than amend the existing easement between our companies, I thought it more appropriate to prepare a license agreement to handle the access requested by Elf Atochem North America, Inc. per our discussions. An amendment to the easement would have to be recorded in the deed. I did not think that was warranted in this instance of a request for temporary access, which would last for two days at the most.

I have attached a draft license agreement for your review and approval. I have also attached a copy of the existing Easement. The consultant who could perform the geotechnical investigation is currently at the site, so it would be helpful if we could resolve this in the next day or two and take advantage of this rather than requiring the consultant to return at an additional expense.

Thank you for your consideration of this matter.

Sincerely,

Marina Liacouras Bouley  
Of Counsel

mlb12-6.1  
Enclosure

cc: D. Loutzenhiser  
M. Schu, Esq.

EXHIBIT 2

AR001286

## DRAFT LICENSE AGREEMENT

This Agreement is entered into this \_\_\_\_ day of December 1994, by and between Allegheny Ludlum Corporation, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania (Allegheny) and Elf Atochem North America, Inc., a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania (ATO) (together known as the Parties).

**WHEREAS**, ATO has entered into a Consent Decree with the U.S. Environmental Protection Agency lodged in the United States District Court for the Eastern District of Pennsylvania, Civil Action No. 93-2182 to perform the Remedial Design/Remedial Action (RD/RA) at the Lindane Dump Superfund Site, without waiving any claims for recovery of the costs of such RD/RA; and

**WHEREAS**, Allegheny is the owner of a parcel of land described as Deed Book 3977, Pg. 678, 1520-E-35 and identified in Exhibit A (the Tract); and

**WHEREAS**, ATO requires access to the Tract to conduct a geotechnical investigation consisting of a boring and soil testing program to support the design of a small building to house the leachate/shallow ground water system required by the RD/RA (the Work); and

**WHEREAS**, Allegheny is desirous of granting ATO access to the Tract;

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained and intending to be legally bound thereby, the Parties do covenant and agree as follows:

Allegheny hereby grants to ATO and its agents, employees contractors, subcontractors, consultants, representatives, invitees and licensees, together with

AR001287

any motor vehicles, materials, equipment or machinery to be used by the foregoing,  
a license for access to the Tract to conduct the Work.

The License shall terminate immediately upon completion of the Work by ATO.

This Agreement expresses the entire agreement between the Parties and all the rights, privileges, covenants and obligations hereunder shall extend unto and inure to the benefit of and be binding upon the Parties hereto and their successors and assigns.

IN WITNESS WHEREOF, the Parties hereto set their hands and seals the day and year first written above.

**ALLEGHENY LUDLUM CORPORATION**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST:  
\_\_\_\_\_

**ELF ATOCHEM NORTH AMERICA, INC.**

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST:  
\_\_\_\_\_

AR001288

AR001289

Post-It™ brand fax transmittal memo 7671		# of pages	1	
To	John Tishok		From	Karen Davis
Co.	Allegheny Ludlum		Co.	ELF Aachen
Dept.			Phone #	215-419-7902
Fax #	412-394-3010		Fax #	215-419-7597

December 1, 1994

**MEMORANDUM**

**TO: D. Loutzenhiser**

**FROM: G. Martin, M. Monteleone**

**CC: J. Pinterich**

**RE: Geotechnical Investigation - Allegheny Ludlum Property  
for Treatment Building**

On a preliminary basis, we expect to implement the following type of geotechnical investigation on the Allegheny Ludlum property which we understand to be across from the present wastewater treatment building. The purpose of the investigation, based on our knowledge of the property, would be to perform a boring and soil testing program to support the design of a small building to house the leachate/shallow groundwater treatment system.

**Boring Program**

Approximately 8 borings

Borings will be advanced to rock

Split spoon - continuous sampling

Shelby tubes based on visual observation

Boring logs with blow counts will be prepared

**Soil Testing - Minimum**

Moisture Content

Unit Weight

Sieve Analysis

Atterberg Limits

**Soil Testings - Optional depending on type of material encountered**

Relative Density

Consolidation

Triaxial

AR001290



# Allegheny Ludlum

CORPORATION

April 6, 1995

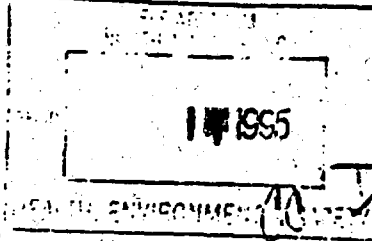
RECEIVED

APR - 7 1995

John M. Tishok  
Environmental and Commercial Counsel  
412-394-2835

ELF ATOCHEM NORTH AMERICA, INC.  
ENVIRONMENTAL LAW DEPARTMENT 412-394-3000

Karen H. Davis, Esq.  
Senior Counsel  
Environmental Law Department  
Elf Atochem North America, Inc.  
2000 Market Street  
Philadelphia, PA 19103-3222



Re: Access to Allegheny Ludlum Property,  
Harrison Township, Pennsylvania

*Handwritten notes:*  
Doug Loutzenhiser  
Mike Scher  
Karen Flynn  
Bill Kennedy

Dear Karen:

The following is in response to Elf Atochem's request for access to the property identified by the Draft License Agreement enclosed with your letter of March 8, 1995.

Allegheny Ludlum has provided, and continues to provide, Elf Atochem access to, and an easement on, Allegheny Ludlum's property for purposes of operation of a leachate collection system and treatment plant. Allegheny Ludlum provided access and use of our property in order to enable Elf Atochem to fulfill its commitments to perform the Remedial Investigation and Feasibility Study and other work required by the EPA.

We do not believe that access to the identified property is necessary under the Remedial Design/Remedial Action Consent Decree between Elf Atochem and EPA. This property is not part of the Superfund Site. There are alternatives that can be engineered for an on-site leachate treatment system. Accordingly, it would not be appropriate to construct the treatment plant on a location other than on-site.

Allegheny Ludlum will continue to cooperate and assist Elf Atochem and the EPA concerning access to the Superfund Site.

Very truly yours,

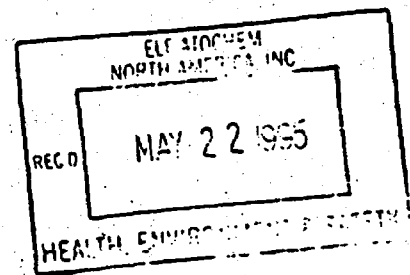
*Handwritten signature of John M. Tishok*  
John M. Tishok

JMT:mac

FEDERAL EXPRESS

MAC0047

ECKENFELDER INC.®



May 17, 1995

9166

Doug Loutzenhiser  
Elf Atochem North America, Inc.  
2000 Market St.  
Philadelphia, PA 19103

Dear Doug:

The land requirement for the upgraded leachate/shallow groundwater treatment system is presently estimated at 17,000 square feet, which is comprised of 10,000 square feet for the treatment building and 7,000 square feet for parking and truck loading/unloading. These areal requirements are exclusive of any zoning setbacks that might be imposed. This contrasts the present area occupied by the interim treatment system, which is less than 5,000 square feet. The land on the northern side of Karns Road, where the interim system is located, is insufficient for the upgraded design.

If you have any questions, please call so that we can discuss them.

Sincerely,

ECKENFELDER INC.®

Michael T. Bazydola, E.I.T.  
Project Engineer

Jeffrey L. Pirogich, P.E., CHMM  
Vice President  
Director, Waste Management Division

**elf atochem**



Environmental Law Department

**Elf Atochem North America, Inc.**

2000 Market Street  
Philadelphia, PA 19103-3222  
Tel.: 215.419.7000

Direct Dial: (215) 419-7903  
Telecopier: (215) 419-7597

March 8, 1995

**VIA TELECOPY & FIRST CLASS MAIL**

John M. Tishok, Esquire  
Allegheny Ludlum Corporation  
Six PPG Place, 10th floor  
Pittsburgh, PA 15222-5479

**Re: Access to Allegheny Ludlum Property  
Harrison Township, PA**

Dear John:

I am writing to follow-up regarding Elf Atochem's requests for access to a portion of Allegheny Ludlum's property in Natrona in order for Elf Atochem to fulfill its commitments under the Consent Decree with EPA. During our conference call in January we offered to provide you with available information regarding the proposed geotechnical testing necessary to design the foundation of the required leachate/shallow groundwater treatment system. We have not received any requests from Allegheny Ludlum for further information, but if you need information in addition to that included in the Geotechnical Investigation Summary previously forwarded to you, please let me know.

As we have discussed, access to this property is necessary since the new treatment system required by the Consent Decree with EPA will be considerably larger than the existing system and the useable land area in the vicinity of the existing treatment system is inadequate. Also excavation into the hillside near the existing treatment system to create a larger useable land area is not technically feasible.

Although a more detailed agreement might be in order once Elf Atochem is in a position to commence construction of the required leachate/shallow groundwater treatment system, we believe that the proposed access agreement sent by Elf Atochem in December 1994 is appropriate for governing Elf Atochem's access to the property to perform the limited geotechnical investigation. As Elf Atochem representatives indicated when this request for access was first made in November, 1994, it is important that the geotechnical work be conducted in the near future so that the Remedial Design/Remedial Action work required by the Consent Decree can proceed on

EXHIBIT 3

AR001293

Page 2

John M. Tishok, Esquire  
Allegheny Ludlum Corporation  
March 8, 1995

schedule. Because the winter weather will soon be ending, Elf Atochem will be returning to the field soon and would like to have an access agreement in place as soon as possible.

If there are any questions about or comments on the December 1994 proposal, please let me know.

For your convenience, another copy of the proposed December 1994 Access Agreement and a copy of the page of the Consent Decree regarding access is attached. So that Elf Atochem can continue to meet its scheduling commitments with EPA, we require a response from Allegheny Ludlum by March 15, 1995. We believe it is in our mutual best interest, as Co-PRPs, to work out an access agreement between our two companies rather than contacting EPA for assistance in obtaining access, as provided for in the Consent Decree.

If you have any questions, or require any additional information, please do not hesitate to call.

Sincerely,

*Karen Davis*

Karen H. Davis

Senior Counsel

Environmental Law Department

KHD/sah

Enclosure

cc: D. Loutzenhiser

J. Walton - Allegheny Ludlum

AR001294

## **DRAFT LICENSE AGREEMENT**

This Agreement is entered into this \_\_\_\_ day of March 1995, by and between Allegheny Ludlum Corporation, a corporation organized and existing under the laws of the Commonwealth of Pennsylvania (Allegheny) and Elf Atochem North America, Inc., a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania (ATO) (together known as the Parties).

WHEREAS, ATO has entered into a Consent Decree with the U.S. Environmental Protection Agency lodged in the United States District Court for the Eastern District of Pennsylvania, Civil Action No. 93-2182 to perform the Remedial Design/Remedial Action (RD/RA) at the Lindane Dump Superfund Site, without waiving any claims for recovery of the costs of such RD/RA; and

WHEREAS, Allegheny is the owner of a parcel of land described as Deed Book 3977, Pg. 678, 1520-E-35 and identified in Exhibit A (the Tract); and

WHEREAS, ATO requires access to the Tract to conduct a geotechnical investigation consisting of a boring and soil testing program to support the design of a small building to house the leachate/shallow ground water system required by the RD/RA (the Work); and

WHEREAS, Allegheny is desirous of granting ATO access to the Tract;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound thereby, the Parties do covenant and agree as follows:

Allegheny hereby grants to ATO and its agents, employees contractors, subcontractors; consultants, representatives, invitees and licensees, together with

AR001295

any motor vehicles, materials, equipment or machinery to be used by the foregoing,  
a license for access to the Tract to conduct the Work.

The License shall terminate immediately upon completion of the Work by ATO.

This Agreement expresses the entire agreement between the Parties and all the  
rights, privileges, covenants and obligations hereunder shall extend unto and inure to  
the benefit of and be binding upon the Parties hereto and their successors and  
assigns.

IN WITNESS WHEREOF, the Parties hereto set their hands and seals the day  
and year first written above.

ALLEGHENY LUDLUM CORPORATION

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST: \_\_\_\_\_

ELF ATOCHEM NORTH AMERICA, INC.

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST: \_\_\_\_\_

AR001296

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

Plaintiff,

v.

ELF ATOCHEM NORTH AMERICA, INC.

Defendant.

CIVIL ACTION NO.

LINDANE DUMP SUPERFUND SITE RD/RA CONSENT DECREE

AR001297

Information); and

X. 7. Assessing Settling Defendant's compliance with this Consent Decree.

→ 8. To the extent that the Site or any other property to which access is required for the implementation of this Consent Decree is owned or controlled by persons other than Settling Defendant, Settling Defendant shall use best efforts to secure from such persons access for themselves, as well as for the United States and its representatives, including, but not limited to, EPA and its contractors, as necessary to effectuate this Consent Decree. If any access required to complete the Work is not obtained within forty-five days of the date of lodging of this Consent Decree, or within forty-five days of the date EPA notifies the Settling Defendant in writing that additional access beyond that previously secured is necessary, Settling Defendant shall promptly notify the United States, and shall include in that notification a summary of the steps Settling Defendant has taken to attempt to obtain access. The United States may, in its unreviewable discretion, assist Settling Defendant in obtaining access. Settling Defendant shall reimburse the United States, in accordance with the procedures in Section XVII (Reimbursement of Response Costs), for all costs incurred by the United States in obtaining access.

C. Notwithstanding any provision of this Consent Decree, the United States retains all of its access authorities and rights, including enforcement authorities related thereto, under CERCLA, RCRA and any other applicable statute or regulations.

phases  
added

AR001298



**elf atochem**



**Elf Atochem North America, Inc.**

2000 Market Street  
Philadelphia, PA 19103-3222  
Tel.: 215.419.7000

**HEALTH, ENVIRONMENT & SAFETY**

May 23, 1995

**FILE:** \_\_\_\_\_

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Ms. Donna Santiago (3HW23), Remedial Project Manager  
United States Environmental Protection Agency, Region III  
841 Chestnut Street  
Philadelphia, PA 19107

**Subject:**      **Natrona Alsco Community Park/Lindane Site**  
                 **Access to Adjacent Allegheny Ludlum Corporation (ALC) Property**

**Dear Ms. Santiago:**

This will confirm our recent discussion with respect to an access issue which has ensued between Elf Atochem and ALC. For the past six months, Elf Atochem has attempted to negotiate an access agreement, in good faith, with ALC for an approximately one-half acre parcel which is immediately adjacent to the interim leachate collection and treatment system and across Karns Road. The exact location of this parcel is highlighted on the enclosed Survey of Property.

As you know, the selected remedy for the site as specified in the Record of Decision requires that Elf Atochem upgrade the existing interim leachate treatment system so that the resulting discharge will meet the final effluent limitations. Elf Atochem is proceeding on schedule with the layout and design of the final treatment system.

During the course of the remedial design, it has become apparent that the land requirements for the final treatment system "footprint" will greatly exceed the space available at the existing site location. The area presently occupied by the interim system is less than 5,000 square feet. This area represents the maximum space available. The footprint of the final system is presently estimated at 17,000 square feet. The close proximity of the hill slopes and the subsurface leachate collection system place severe physical constraints on designing a final treatment system building and support facilities to fit on the existing site. Mr. Frank Vavra, the former EPA Remedial Project Manager for the site and Terry Goodwald, the Remedial Project Manager from the Pennsylvania DER can both attest to the severe space constraints at the existing site.

We have enclosed copies of the correspondence with ALC regarding this matter, including their recent letter of April 6, 1995 which denies Elf Atochem access to the parcel of interest. While

EXHIBIT 6

AR001299

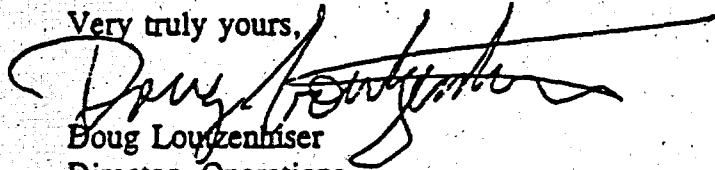
Ms. Donna Santiago  
May 23, 1995  
Page 2

this parcel is not part of the Project Site, it is in close proximity to the site, is owned by a Potentially Responsible Party (PRP), ALC, and it is not developed. Given the space limitations on the Project Site, this parcel is needed for development of the final leachate treatment system required by the Consent Decree. To this end and in accordance with Paragraph X.B. of the Consent Decree, Elf Atochem requests EPA's assistance in obtaining access from ALC to the property identified herein. In the near term, it is extremely important that we be allowed to enter onto the property and collect geotechnical information which will provide design criteria for the building foundation.

Also, we are continuing negotiations with the new Harrison Township administration regarding a formal access agreement. If Elf Atochem is unable to reach a final resolution with the Township, which EPA also considers to be a PRP in this matter, we may request EPA's assistance on access issues with this party as well.

We look forward to the agency's favorable decision with respect to our request and would welcome a meeting with the agency to discuss this matter further. Meanwhile, if you have any questions or comments, please call me at (215) 419-5814.

Very truly yours,



Doug Louzenhiser  
Director, Operations  
Health, Environment and Safety

/GDL  
Enclosures

AR001300

Ms. Donna Santiago  
May 23, 1995  
Page 3

cc: Patricia C. Miller, Esquire  
Office of Regional Counsel  
U.S. Environmental Protection Agency  
Region III  
841 Chestnut Street  
Philadelphia, PA 19107

John C. Cruden  
Chief, Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Ben Franklin Station  
Washington, D.C. 20044  
Re: DOJ # 90-11-3-941

Terry Goodwald  
PADER Project Officer  
Pennsylvania Department of Environmental Resources  
Southwest Region  
400 Waterfront Drive  
Pittsburgh, PA 19102

Michael E. Schu, Esq. - Elf Atochem

AR001301

bcc: with attachment:  
w/o attachment:

File,  
K. Davis, W. Gregory, T. Jacquet, J. Lynn,  
D. Schwartzberg, S. Vakil, J. Pintenich (Eckenfelder)

AR001302



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
841 Chestnut Building  
Philadelphia, Pennsylvania 19107-4431

URGENT MATTER-IMMEDIATE RESPONSE REQUIRED  
VIA TELECOPIER AND OVERNIGHT MAIL DELIVERY

May 7, 1996

John M. Tishok, Esquire  
Allegheny Ludlum Corporation  
10th Floor  
Six PPG Place  
Pittsburgh, PA 15222-5479

Re: Lindane Dump Site, Harrison Township, PA

Dear Mr. Tishok:

As you are aware, Elf Atochem North America, Inc. ("Atochem") is conducting the CERCLA clean-up of the Lindane Dump Site pursuant to a Consent Decree, Civil Action No. 93-2182 (E.D. Pa). Under this Consent Decree, it has been attempting to secure access to a parcel owned by Allegheny Ludlum Corporation ("Allegheny"), to conduct the response action. This parcel is identified in the Allegheny County Deed Book as D B 3977, Pg. 678, 1520-E-35, Harrison Township, PA. Atochem's monthly progress reports to EPA indicate that Allegheny has refused, and continues to refuse, access to the parcel. Atochem has demonstrated that its best efforts to secure such access have been thwarted by Allegheny. You have reiterated Allegheny's refusal to permit access to the parcel in telephone conversations with EPA.

EPA, through its special notice procedures, has identified Allegheny as a potentially responsible party ("PRP") for the Site. In response, Allegheny has refused to participate either in the clean-up or by permitting access to conduct the response action. Allegheny continues to be a recalcitrant PRP by its failure to participate, or cooperate with Atochem.

By this letter, EPA hereby gives notice of its intent to exercise its enforcement authorities to secure access pursuant to CERCLA § 104(e), 42 U.S.C. § 9604(e). Unless, the United States and Atochem, as our designated representative, are granted immediate access to the property to conduct the necessary activities required by the Consent Decree, EPA will issue a CERCLA § 104(e) Unilateral Administrative Order ("UAO") to Allegheny. EPA requests that Allegheny permit access to the property to conduct the necessary activities by 3:00 p.m. on Friday, May 10, 1996. A failure to provide EPA with a written response by such time will be deemed to be a refusal to grant

*Celebrating 25 Years of Environmental Progress*

AR001303

EXHIBIT 7

this request.

I may be reached at 215-597-3440 should you wish to discuss this matter.

Very truly yours,

*Patricia C. Miller*

Patricia C. Miller  
Senior Assistant Regional Counsel

cc: Donna Santiago, EPA Remedial Project Manager  
Karen Davis, Counsel for Elf Atochem North America, Inc.

# Allegheny Ludlum

CORPORATION

May 9, 1996

John M. Tishok  
Environmental and Commercial Counsel  
412-394-2835

Facsimile: 412-394-2835

**TRANSMITTED BY FAX -- ORIGINAL BY MAIL**

Patricia C. Miller, Esq.  
Senior Assistant Regional Counsel  
United States Environmental  
Protection Agency  
Region III  
841 Chestnut Building  
Philadelphia, PA 19107-4431

Re: Real Estate Identified in Allegheny County Deed  
Book 3977, Page 678, 1520-E-35 Harrison Township, PA

Dear Ms. Miller:

I am writing in response to your letter of May 7, 1996 and as a follow-up to our conversation of May 9, 1996. As we discussed, Allegheny Ludlum is willing to enter into an appropriate license agreement with Elf Atochem to provide access to the above-identified parcel.

The land in question is a valuable property of Allegheny Ludlum and is part of our Natrona Plant. We continue to be skeptical as to whether the subject parcel is necessary for completion of the response action at the Lindane Superfund Site. Accordingly, we would appreciate receiving information from EPA or Elf Atochem that addresses this issue. Our agreement to grant access for the geotechnical investigation should not be construed as an agreement to a taking of the property.

Enclosed is a copy of the License Agreement that is being transmitted to Elf Atochem along with a copy of this letter.

If you have any questions, please do not hesitate to telephone me. We trust that this written response will satisfy the requirements of your May 7, 1996 letter.

Very truly yours,

  
John M. Tishok

JMT:mac  
Enc.

cc: Karen Davis (w/enc.) - by FAX -- original by mail  
MAC0001

**LICENSE AGREEMENT**

This Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 1996, by and between Allegheny Ludlum Corporation ("ALC"), a Pennsylvania corporation and Elf Atochem North America, Inc. ("ATO"), a Pennsylvania corporation, (collectively known as the "Parties").

WHEREAS, ATO has entered into a Consent Decree with the U.S. Environmental Protection Agency ("EPA") lodged in the United States District Court for the Eastern District of Pennsylvania, Civil Action No. 93-2182 to perform the Remedial Design/Remedial Action ("RD/RA") at the Lindane Dump Superfund Site; and

WHEREAS, ALC is the owner of a parcel of land described as Deed Book 3977, Pg. 678, 1520-E-35 and identified in Exhibit A (the "Tract"); and

WHEREAS, ATO desires access to the Tract to conduct a geotechnical investigation consisting of a soil boring program as necessary to design a foundation for a small building to house a leachate/shallow ground water system (the "Work"); and

WHEREAS, ALC is willing to grant ATO access to the Tract for the purposes of performing the Work;

NOW, THEREFORE, in consideration of the mutual covenants herein contained and intending to be legally bound thereby, the Parties do covenant and agree as follows:

ALC hereby grants to ATO and its agents, employees contractors and consultants a license for access to the Tract to



conduct the Work. It is agreed that any exercise of the rights or privileges granted by this Agreement shall be subject to the following terms and conditions:

1. The access rights shall include the right to enter upon the Tract during normal working hours Monday through Friday, to perform the Work.

2. When reasonably possible, ATO shall contact ALC in advance of entering the Tract. Privileges of entry and use shall be exercised with due regard for the rights of ALC and shall be conducted in a manner that does not interfere with any uses or occupation of the Tract.

3. ATO agrees that ALC and its representatives shall have access at all times to the Tract during the course of the Work and shall be permitted to monitor the progress of the Work. ATO shall provide the results of the Work, including any reports to EPA or other regulatory agencies, to ALC.

4. ATO accepts title, risk of loss, and all other incidents of ownership to any waste materials generated in connection with the Work.

5. ATO represents and warrants: (1) that it holds and will maintain during the performance of the Work, all necessary permits, licenses, certificates and approvals required or otherwise necessary for the performance of the Work; and (2) that it will comply with all federal, state and local laws, rules, regulations and ordinances in conducting the Work and in managing

and disposing of any waste materials generated in connection with the Work.

6. ATO will restore any portion of the Tract affected by the Work to conditions comparable to the current conditions at the Tract.

7. Except as otherwise set forth in this paragraph, this Agreement shall commence upon the execution hereof and terminate upon completion of the Work by ATO. In addition to all other rights available to ALC at law, in equity or otherwise, ALC may terminate this Agreement upon a material breach of this Agreement or a failure to perform the Work in a timely or reasonable manner, which breach or failure continues for a period of at least ten (10) days after written notice by ALC to ATO giving the details of the alleged breach or failure (provided that, if the nature of the breach or failure reasonably requires more than ten (10) days to cure, that ATO does not reasonably commence to cure such default, and diligently proceed to cure such default, in said ten (10) day period).

8. Nothing in the Agreement shall be construed to grant ATO an interest in real estate. Nor does ALC's agreement hereto in any way indicate its consent to any future use of the Tract in conjunction with the RD/RA.

9. ATO agrees to defend, indemnify and hold ALC harmless from any and/or all claims, damages, losses, and expenses, which ALC may suffer, incur or pay arising from the Work or access granted pursuant to this Agreement, or failure of

ATO to observe and comply with and fulfill the terms of this Agreement, regardless of whether such claims, damages, losses, or expenses are caused in whole or in part by the negligent acts, omissions or willful misconduct of ALC. ATO further agrees to indemnify ALC for loss of use or utility of its premises incurred in connection with the Work. ATO's obligation to so defend, indemnify and hold ALC harmless shall survive the termination of this Agreement.

10. The Parties agree that the results of any Work may not be used to support or defend against any and/or all claims, damages, losses, and expenses that have been or may be asserted by ATO against ALC. This provision shall survive the termination of this Agreement.

11. The failure of either party to enforce any term or provision of this Agreement shall not be construed or deemed to be a waiver of any other term or provision of this Agreement nor a waiver of a subsequent breach of the same term or provision, unless such waiver be expressed in writing by the party to be bound.

12. If any provision of the Agreement is held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement. This Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

13. Neither party shall assign, sublet or transfer any rights under or interest in this Agreement without the written consent of the other. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

14. This Agreement shall be deemed to be executed and delivered within the Commonwealth of Pennsylvania, and shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania.

15. This Agreement may be amended or modified only by written amendment signed by duly authorized representatives of the Parties.

16. The Parties agree that service of any notice, request, designation, direction, statement or other communication under this Agreement may be made by faxing a copy to the individuals listed below, at their respective facsimile numbers, followed by mailing a copy by first class mail to their respective addresses.

If to ALC:

Jon D. Walton, Esquire  
Vice President, General Counsel and Secretary  
Allegheny Ludlum Corporation  
Six PPG Place, Tenth Floor  
Pittsburgh, PA 15222  
(412) 394-2835, FAX: (412) 394-3010

10 01099310000 1000/000

If to ATO:

[Name/Address/Telephone and Facsimile Numbers]

17. This Agreement expresses the entire agreement between the Parties and all the rights, privileges, covenants and obligations hereunder shall extend unto and inure to the benefit of and be binding upon the Parties hereto and their successors and assigns.

IN WITNESS WHEREOF, the Parties hereto set their hands and seals the day and year first written above.

ALLEGHENY LUDLUM CORPORATION ELF ATOCHEM NORTH AMERICA, INC.

BY: \_\_\_\_\_

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

ATTEST: \_\_\_\_\_

ATTEST: \_\_\_\_\_